



King County Board of Ethics  
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## KING COUNTY BOARD OF ETHICS MEETING NOTICE

**When:** Monday, May 20, 2002, at 4:30 p.m.

**Where:** Bank of California Building  
900 Fourth Avenue, 4<sup>th</sup> Avenue and Marion Street, Seattle  
5<sup>th</sup> floor conference room, northwest corner of building

### AGENDA

1. *Approval of Agenda*
2. *Approval of Meeting Minutes of April 15, 2002.*
3. ***Discussion on Complaints Filed with the Ombudsman.*** Ombudsman—Office of Citizen Complaints
4. ***Request for Advisory Opinion on Referrals to the Ombudsman.***
5. ***Staff Report.***
  - Monthly Bulletin—Current Ethics Issues
  - Ethics Legislation—Update
  - Financial Disclosure Program 2002—Final Report
  - Blacks In Government Conference Presentation May 22, 2002
  - Council and Executive Meetings
  - Board Reception

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### **Minutes of the May 20, 2002, Meeting of the King County Board of Ethics**

The May 20, 2002, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:32 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair  
Mr. Roland H. Carlson  
Margaret T. Gordon, Ph.D.  
Lembhard G. Howell, Esq.  
Rev. Paul F. Pruitt

Others in attendance:

Ms. Catherine A. Clemens, Administrator, King County Board of Ethics  
Mr. James J. Buck, Administrative Services Manager, Department of Executive Services  
Ms. Cheryl Carlson, Senior Deputy Prosecuting Attorney  
Mr. Duncan Fowler, Director, Office of Citizen Complaints—Ombudsman  
Mr. Carl Anderson, Program Analyst, Property Services, Construction and Facilities Division, Department of Executive Services

1. *Proposed Agenda.* Rev. Pruitt moved and Mr. Carlson seconded that the board approve the proposed agenda. The board unanimously adopted the motion.

Chair Price Spratlen asked for introductions from those present.

2. *Approval of Meeting Minutes of April 15, 2002.* Dr. Gordon moved and Rev. Pruitt seconded that the board approve the April 15, 2002, meeting minutes. Ms. Clemens asked for discussion due to recent information received from Ms. Carlson. Ms. Carlson stated that it has recently come to her attention that the allegations of impropriety contained in the meeting minutes may be too detailed and might be more appropriately addressed in executive session. Based on recent communications made to her, she would request that the board delay formal adoption of the minutes until she is able research and review the issue. Dr. Price Spratlen asked who had raised the concerns. Ms. Carlson responded that it was the employee who was the subject of the allegations; the employee was particularly concerned since all board meeting minutes are posted on the ethics board web site. Rev. Pruitt stated that all board minutes reflect discussion during a public meeting and asked if the minutes reflect more than they should? Ms. Carlson responded, 'no,' but said that some of the discussion possibly should have been conducted in executive session. She noted that she does not know the answer at this time but wishes to review. Mr. Carlson stated that the board probably would not change the minutes, but would like to hear the advice. Chair Price Spratlen stated that she would be willing to delay a vote on approval of the

minutes, but noted that everything reflect in the minutes took place in a public meeting. Ms. Carlson stated that the nature of the employee's concerns are abstract and related to allegations against that employee. Ms. Clemens clarified for the board that the ombudsman and the employee had asked for the minutes following the April 15<sup>th</sup> meeting; she released the documents with the understanding that both the ombudsman and the employee knew the minutes had not yet been approved.

Mr. Howell arrived at 4:45 p.m.

Ms. Carlson stated that the manner in which the minutes are written and the level of detail reflected in those minutes should be reviewed. Rev. Pruitt stated that he has significant concerns about the approach that only certain, selected statements, comments or questions would be made a part of the record, particularly since they occurred during a public meeting. Ms. Carlson agreed that his concerns were legitimate; she would not recommend such action, but only to make sure that it is clear that those statements are allegations only. Chair Price Spratlen asked how this discussion originally came about. Ms. Carlson stated that the auditor, who was the subject of the allegations, expressed concerns to the county council legal staff that the allegations made against her would be posted on the ethics board web site; council legal staff contacted Ms. Carlson. Mr. Carlson then moved to delay approval on the April 15, 2002, minutes until the next meeting at which time the issues would be researched and reported upon by board counsel and administrator; Dr. Gordon seconded the motion. Mr. Carlson, Rev. Pruitt and Dr. Gordon voted in favor of the motion; Mr. Howell and Chair Price Spratlen abstained; the motion passed.

3. *Discussion on Complaints Filed with the Ombudsman.* Ms. Clemens briefed the board. During the April 15<sup>th</sup> meeting, the board heard a request for an advisory opinion regarding appropriate use of county resources under the code of ethics. The board directed the administrator to communicate with the ombudsman regarding the substance of the meeting, and to invite him to attend the next ethics board meeting so that he might inform them of his procedures upon receiving complaints as well as the outcome of the complaint under discussion. Mr. Fowler explained the complaint process from receipt of the complaint to the opportunity for appeal. Mr. Howell asked if any laws prohibited making the findings public. No. Mr. Fowler also reviewed four complaints filed recently related to the advisory opinion before the board during its last meeting. The ombudsman declined three cases and investigated one and reviewed the reasons for such decisions. The board and ombudsman discussed a similar case when a complaint had been lodged against a councilmember for use of county resources related to her involvement in a professional organization. Mr. Howell asked if any laws regulated such use. Mr. Fowler responded 'no,' although the immediate supervisor would probably be expected to have knowledge of and given approval for such activity. Mr. Carlson stated that since supervisors would approve budgets and employee activities, such oversight would be a management responsibility. Mr. Fowler confirmed that in this case, management had approved such activities. He also noted that, from time to time, a displeased employee may scrutinize their work situation and observe behaviors they do not agree with. In this case, the complainant had not provided any special information that would lead the ombudsman to agree with the complaint. Chair Price Spratlen inquired if Mr. Fletcher had been informed of the meeting. Ms. Clemens stated that he had received the agenda in a timely way. Mr. Fletcher had responded to Ms. Clemens that he would be unable to attend due to previously scheduled appointments. Ms. Clemens read a comment submitted by Mr. Fletcher to the board in which he stated that he

had decided against submitting another written statement to the board; he was disappointed with the OCC's findings, felt abuses had occurred and felt that he had needed to say something. He now wished to leave the issue as it stands.

Mr. Carlson expressed his concern if the board were to become involved in matters that are already being addressed by the ombudsman. Mr. Howell stated that his previous impression had been that the ombudsman had not adequately or fully heard the complaint, but that Mr. Fowler had now clarified the process as well as the response. A discussion of exempt employment status versus hourly employee status followed. The board directed the administrator to draft a letter for the chair's signature to be sent to Mr. Fletcher to express the board's final determination on his requests to the board. The board thanked Mr. Fowler for his attendance and for his help in resolving its concerns.

Rev. Pruitt left the meeting at 5:30 p.m.

*Request for Advisory Opinion on Referrals to the Ombudsman.* Ms. Clemens introduced the request and invited Mr. Anderson to speak on behalf of his request. Mr. Anderson first expressed appreciation for the professional and responsive manner in which the administrator had dealt with his request. He informed the board that the ethics code is confusing to employees, specifically about where a complaint on an ethics violation should be filed and investigated. He stated that he believes the code directs complaints to the ombudsman's office where the matter may be fairly and impartially investigated. His experience in approaching supervisors with ethics issues was to be told to 'go look it up.' Mr. Anderson stated this confusion creates difficulties for employees trying to adhere to the code.

Mr. Anderson stated that the matter related to his request also involves private litigation in which a citizen alleged criminal conflict of interest by Mr. Anderson; the citizen subsequently lodged a complaint against him with the county division in which he was employed. The private individual took depositions from division representatives with members of the prosecuting attorney's office present. Mr. Anderson informed the board that the county has placed him on administrative leave with pay. He stated that this means that, as a teamster, he may not grieve the matter; he has been unable to find out from county staff the status of the investigation. Mr. Anderson stated that he believes the matter should have gone to the ombudsman and that is why he would like an advisory opinion from the board on the issue.

Mr. Howell asked if the matter was currently in civil court? Mr. Anderson responded 'yes,' and that a summary judgement had recently been issued against the defendant. Mr. Howell stated that neither the ethics board nor the county could prevent a matter from being heard in the courts. Mr. Fowler agreed that the county could not prevent a private citizen from taking action and that supervisors have a responsibility to address issues affecting the county. If departments cannot or will not manage issues related to their agencies, the ombudsman will address them. Ms. Carlson noted that several avenues are available to those with complaints, including the prosecuting attorney's office, county departments and agencies and the Office of Citizen Complaints—Ombudsman. Mr. Anderson again stated that for a fair and unbiased investigation, the complaint should first go to the O.C.C. Mr. Howell responded that the board does not have the authority to dictate to the prosecuting attorney's office how to handle such complaints. Mr. Fowler stated that if a complaint is received, the prosecuting attorneys office is obligated to work with departments to

investigate, and may hire third parties to work on their behalf. Mr. Carlson moved that, based on the information provided, the board follow the recommendation contained in the briefing and decline to issue an opinion on the matter; Mr. Howell seconded the motion and the motion passed unanimously.

Mr. Anderson and Mr. Fowler left the meeting at 5:45 p.m.

*Staff Report.* Ms. Clemens briefed the board. Monthly Ethics Bulletin. Ms. Clemens stated that the purpose of the monthly bulletins is to keep DES management and the board informed on ethics-related matters in which the ethics office and board are participants. Matters of note may be representational of general ethics issues or a systemic matters within a department or the county as a whole. Use of the HUM messaging system continues as an issue. No guidelines have been developed by the executive's office and county employees continue to advertise paid events held in county facilities. In addition, county employees may be selling commercial products during such events and using the county email system for list serve purposes to communicate with county personnel on topics related to the general interest of such groups—all unrelated to official county business. The matter of consistent and allowable use of county resources by department of transportation employees has been resolved. A collaborative effort between department staff and the ethics administrator has resulted in notice from the department director to all staff of department policy regarding appropriate use of county resources. Ethics Legislation. The report to the board on the proposed amendment to the post employment provisions under the code of ethics is delayed and will be presented by counsel and administrator at the next meeting. Financial Disclosure Program 2002—Final Report. Filing compliance for the current year's financial disclosure program is the most timely and complete to date. As of May 14, 2002, 100% of 1,969 affected employees and 92% of 436 members or boards and commission members had filed disclosure forms. In its final report to the executive, the board has requested action to remove the members who have not complied with this requirement under the code. The report also recommends directors take a more active role in communicating the importance of the program and the necessity of the requirement to members. Blacks in Government Conference Presentation May 22, 2002. Along with state and city ethics staff, the administrator will appear as a panel member at the 2002 Blacks in Government Conference.

Council and Executive Meetings. The administrator noted that board members had met with councilmembers Edmonds, Lambert, Pelz, Constantine and Pullen. Councilmember Sullivan declined to meet with board members and meetings with Councilmembers Hague and McKenna had been canceled. The administrator will contact council staff for additional meetings. Chair Price Spratlen stated that her experience in these meetings has confirmed for her the importance to continue these meetings, as well as those with the executive. The chair also stated that she appreciated using the DES offices as a staging area for meetings as well as the opportunity to touch base informally with DES leadership at the same time.

Board Reception. The reception will be held on Tuesday, June 18, 2002, 12:15 p.m. – 1:30 p.m.; Executive Sims and Vice Chair von Reichbauer will attend and make brief comments. Of 77 invitations to county leaders, former board members, Seattle ethics commissioners, and others, half have confirmed attendance.

Mr. Howell moved and Dr. Gordon seconded a motion to adjourn the meeting. The board unanimously approved the motion and the meeting was adjourned at 6:05 p.m.

Approved this 19<sup>th</sup> day of August, 2002, by the King County Board of Ethics.

Signed for the Board: \_\_\_\_\_  
Dr. Lois Price Spratlen, Chair